IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6600 OF 2006

Subhash Shivling Bidkar Petitioner
versus
Shivling Appanna Bidkar & ors. Respondents

R.S.Datar for petitioner.
M.V.Bandiwadekar for respondents 1 to 3.

CORAM : A.P.DESHPANDE, J.

DATE : 13th December 2006

PC :

1. The respondents herein, who are father and two sons, instituted a suit for perpetual injunction with regard to the suit property/ business by contending that the suit properties and the business carried on, is a joint family property. The present petitioner who is the original defendant, has claimed the same to be his self acquired business. It is contended that the business was being run by the defendant alone and he is paying rent to the plaintiffs. The Trial Court, prima facie, found the business to be a joint family business and, hence, granted temporary injunction restraining the defendant

from causing any sort of obstruction and interference to the joint possession of plaintiffs over suit property till decision of the suit. Dissatisfied by the order of the Trial Court, the present petitioner/original defendant filed Miscellaneous Civil Appeal and rejection of said appeal by the learned First Appellate Court has given rise to filing of the present writ petition.

2. Two Courts below have prima facie found that the original plaintiffs are entitled to temporary injunction. The order of temporary injunction is operating for last more than one year. The possible view of the matter taken by the both the Courts below does not call for interference at the hands of this Court under Article 227 of Constitution of India. In the result, there being no merit in the writ petition, the same is summarily dismissed.

3. At this stage the learned counsel appearing for the petitioner submits that interference of the respondents in the business would only result into ruining of the business. In his submission, if the petitioner is permitted to carry on the business to the exclusion of the respondents, the

petitioner can be directed to deposit a given sum of amount in the Court which could be taken by parties succeeding in the Court. All this exercise can be done by the petitioner by moving an appropriate application in the Trial Court which the Trial Court would decide in accordance with law after granting an opportunity of being heard to the respondents. Writ Petition is summarily dismissed.

(A.P.DESHPANDE, J.)